

UNITED STATES DISTRICT COURT

FILED
DISTRICT COURT OF GUAM

for

AUG 15 2006

District of Guam

MARY L.M. MORAN
CLERK OF COURT

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Francis A. Aguon Case Number: CR 97-00074-001

Name of Sentencing Judicial Officer: John S. Unpingco

Date of Original Sentence: October 14, 1997

Original Offense: Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of Title 18, United States Code, Section 841(a)(1).

Original Sentence: 108 months imprisonment followed by a five year term of supervised release with conditions to include: participate in a drug treatment and testing; perform 400 hours of community service; obtain and maintain employment; and pay a \$100 special assessment fee. **Conditions modified on March 31, 2005** to include an additional 100 hours of community service under the direction of the U.S. Probation Office at a rate of eight hours weekly. **Revoked on July 20, 2005** and ordered to serve 11 months prison followed by 49 months supervised release with conditions that he: comply with mandatory and standard conditions; participate in drug treatment and testing; refrain from the use of alcohol and submit to testing; obtain and maintain gainful employment; cooperate in the collection of DNA as directed by the probation officer; not commit another federal, state or local crime; not unlawfully possess and refrain from use of a controlled substance; and submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the Court.

Type of Supervision: Supervised Release Date Supervision Commenced: June 16, 2006

Assistant U.S. Attorney: Karon V. Johnson Defense Attorney: David J. Lujan

PETITIONING THE COURT

- ☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	Failure to report for urinalysis on July 18, 2006.
2.	Unlawful use of a controlled substance on July 18, 2006 and July 26, 2006.

ORIGINAL

U.S. Probation Officer Recommendation:

- ☐ The term of supervision should be
☐ revoked.
☐ extended _____ years, for a total term of _____ years.
- ☒ The conditions of supervision should be modified as follows:


1. The defendant shall serve four days of intermittent confinement, pursuant to Title 18 U.S.C. § 3583(e)(2), 3583(d)(3) at the direction of the U.S. Probation Office, the Bureau of Prisons, and the U.S. Marshals Office.

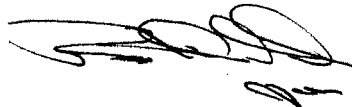
***Please see attached Declaration in Support of Petition;
re: Violation of Supervised Release; Request for a Summons
written by U.S. Probation Officer Robert I. Carreon***


Reviewed by:

Reviewed by:

I declare under penalty of perjury
that the foregoing is true and
correct.


FRANK MICHAEL CRUZ
Chief U.S. Probation Officer
Date: 8/7/2006


KARON V. JOHNSON
Assistant U.S. Attorney
Date: 8-8-06

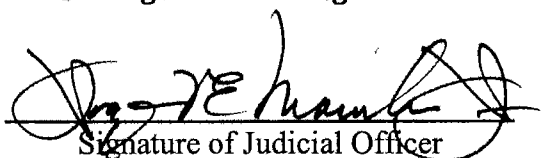

ROBERT I. CARREON
U.S. Probation Officer
Executed on: 8/7/06

THE COURT ORDERS:

- ☐ No action.
☐ The issuance of a warrant.
☒ The issuance of a summons.
☐ Other

RECEIVED
AUG 14 2006
DISTRICT COURT OF GUAM
HAGATNA, GUAM

JOAQUIN V.E. MANIBUSAN, JR.
U. S. Magistrate Judge


Signature of Judicial Officer

August 15, 2006
Date

VIOLATION WORKSHEET

1. Defendant Francis A. Aguon

2. Docket Number (Year-Sequence-Defendant No.) CR 97-00074-001

3. District/Office 0993/1

4. Original Sentence Date 10 / 14 / 1997
month day year

(If different than above):

5. Original District/Office _____

6. Original Docket Number (Year-Sequence-Defendant No.) _____

7. List each violation and determine the applicable grade (see §7B1.1(b))

<u>Violation(s)</u>	<u>Grade</u>
● Failure to report for urinalysis on 7/18/2006	C
● Use of methamphetamine on 7/18/2006 (admission given 7/19/06)	C
● Use of methamphetamine on 7/25/2006 (admission given 7/25/06)	C
● _____	_____
● _____	_____
● _____	_____

8. Most Serious Grade of Violation (see §7B1.1(b)) C

9. Criminal History Category (see §7B1.4(a)) III

10. Range of Imprisonment (see §7B1.4(a)) 5-11 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

- ☒ (a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.
- ☐ (b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.
- ☐ (c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Defendant: Francis A. Aguon

12. Unsatisfied Conditions of Original Sentence

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>N/A</u>
Other	<u>N/A</u>	Intermittent Confinement	<u>N/A</u>

13. Supervised Release

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §7B1.3(g)(1)).

Term: _____ to _____ years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: N/A

Revocation not recommended by the probation officer at this time.

14. Departure

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

None.

15. Official Detention Adjustment (see §7B1.3(e)): 0 months 0 days

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA)	CRIMINAL CASE NO. 97-00074-001
Plaintiff,)	
)	
)	DECLARATION IN SUPPORT OF PETITION
vs.)	
)	
FRANCIS A. AGUON)	
Defendant.)	
_____)	

Re: Violation of Supervised Release; Request for a Summons

I, Robert I. Carreon, am the U.S. Probation Officer assisting in the supervision of the Court-ordered conditions of supervised release for Francis A. Aguon, and in that capacity declare as follows:

On October 14, 1997, Francis Aguon was sentenced to 108 months imprisonment and five years supervised release for the offense of Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of 21 U.S.C. § 841(a)(1). On July 20, 2005, Mr. Aguon's term of supervised release was revoked and he was sentenced to 11 months imprisonment followed by 49 months of supervised release. His term of supervised release began on June 16, 2006. Mr. Aguon is alleged to have committed the following violation:

Standard Condition: *The defendant shall refrain from any unlawful use of a controlled substance.* Mr. Aguon failed to report for urinalysis on July 18, 2006. He reported to this Officer for a compliance meeting on July 19, 2006 and executed a drug use admission form indicating he used methamphetamine on July 18, 2006. Mr. Aguon was warned by this Officer that continued drug use may warrant adverse action from the Court.

On July 25, 2006, Mr. Aguon reported for urinalysis and refused to submit a test sample. He informed testers that he didn't need to test because he knew drug test results would be positive for methamphetamine. Mr. Aguon subsequently executed a drug use admission form for using methamphetamine on July 25, 2006. At the compliance meeting with this Officer on July 26, 2006, Mr. Aguon gave no explanation for his continuing drug use. He was returned to day 1, phase I of the drug treatment and testing program and instructed to return to full compliance. Mr. Aguon was again warned that continued drug use would warrant adverse action from the Court.

DECLARATION IN SUPPORT OF PETITION
Violation of Supervised Release; Request for a Summons
Re: AGUON, Francis A.
USDC Cr. Cs. No. 97-00074-001
August 4, 2006
Page 2

Supervision Compliance: On July 12, 1999, Mr. Aguon satisfied his \$100 special assessment fee. He is presently employed as a construction laborer.

Recommendation: It appearing that Mr. Aguon has continued to use illicit drugs, this Officer respectfully requests that the Court issue a Summons for the defendant to appear at a hearing scheduled by the Court, and during that hearing, he be held to answer or show cause why his term of supervised release should not be modified or revoked pursuant to 18 U.S.C. § 3583.

Further, upon finding of the violations reported above, this Officer respectfully requests that the Court modify conditions of supervised release to require that Mr. Aguon serve four days of intermittent confinement, pursuant to Title 18 U.S.C. § 3583(e)(2), 3583(d)(3) at the direction of the U.S. Probation Office, the Bureau of Prisons, and the U.S. Marshals Office.

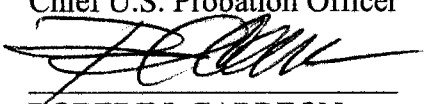
I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Executed this 7th day of August 2006, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.


Respectfully submitted,

FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By:


ROBERT I. CARREON
U.S. Probation Officer

Reviewed by:


FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

cc: Karon Johnson, AUSA
David Lujan, Defense counsel
File